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JUN 05 2007

OFFICE OF PETITIONS

In re Application of :
Neogi, et al. : DECISION ON APPLICATION
Application No. 09/751,214 : FOR PATENT TERM ADJUSTMENT
Filed: December 29, 2000 :
Atty. Dkt. No.: 042390.P99975 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed August 8, 2006.

Applicants herein have not disputed the patent term adjustment (PTA) accorded to date (zero days). Instead, the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within four months of the date of submission of the issue fee payment. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term for Office failure to issue the patent within four months of the date of submission of issue fee payment. See, 37 CFR 1.705(d).

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed May 18, 2006, indicated a patent term adjustment (PTA) to date of zero days. The issue fee payment was timely received August 23, 2006. Applicants argue that the adjustment of zero days is incorrect as the application is entitled to an adjustment for failure to issue the patent within four months of the date of receipt of the issue fee payment pursuant to 37 CFR 1.702(a)(4).

The correct PTA at the time of the allowance is zero days, as indicated on the Determination of Patent Term Adjustment mailed May 18, 2006.

Applicants argue that the patent is entitled to an additional adjustment in accordance with 37 CFR 1.702(a)(4) for the Office's failure to issue the patent within four months from the date of receipt of the issue fee payment.

Applicants are advised that knowledge of the actual date the patent issues is required to calculate the amount of additional patent term, if any, for Office failure to issue the patent within four months of the date of receipt of an issue fee payment. See, 37 CFR 1.703(a)(6). Thus, applicants' request for reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within four months of the date of receipt of the issue fee payment is being **held in abeyance** until after the actual patent date.

In view thereof, at the time of allowance, the application was entitled to an adjustment of zero days, as indicated in the Determination of Patent Term Adjustment mailed May 18, 2006.

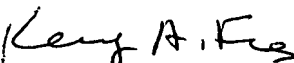
Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

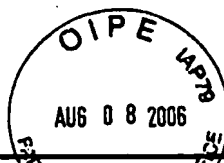
The required Patent Term Adjustment application fee of \$200.00 has been charged to applicants' deposit account.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within four months of the date of receipt of the issue fee payment pursuant to 37 CFR 1.702(a)(4) and 1.703(a)(6). A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.


Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy



FEE TRANSMITTAL for FY 2005

Patent fees are subject to annual revision.

Complete if Known

Application Number	09/751,214
Filing Date	December 29, 2000
First Named Inventor	Neogi
Examiner Name	Leonardo Andujar
Art Unit	2826
Attorney Docket No.	42390P9975

☐ Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT (\$) 0.00

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☒ None ☐ Other (please identify): _____
☒ Deposit Account Deposit Account Number: 02-2666 Deposit Account Name: Blakely, Sokoloff, Taylor & Zafman LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
☒ Charge any additional fee(s) or underpayment of fee(s) ☒ Credit any overpayments
under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20.

FEE CALCULATION

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
2053	130	2053	130	Non-English specification	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1460	130	2460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
1809	790	1809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify) Application for Adjustment of Patent Term Under 37 CFR § 1.705(b)					0.00
SUBTOTAL (2)				(\$)	0.00

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	Paul A. Mendonsa	Registration No. (Attorney/Agent)	42,879	Telephone	(503) 439-8778
Signature		Date	08/02/06		

Based on PTO/SB/17 (12-04) as modified by Blakely, Sokoloff, Taylor & Zafman (w/r) 12/15/2004.
SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

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